

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Russell Geissler, #349604,) C/A No. 4:17-236-MBS-TER
Plaintiff,)
vs.)
) ORDER
Lisa Young, <i>Captain of Saluda Dorm,</i>)
Dennis Bush, <i>Warden, Broad River Correctional</i>)
<i>Institution,</i>)
Brian Smith, <i>Lt. over Saluda on Night Shift,</i>)
McLean, <i>Correctional Officer at B.R.C.I.,</i>)
Washington, <i>Assoc. Warden Broad River</i>)
<i>Correctional Institution,</i>)
Defendants.)

This is a civil action filed by a state prisoner before the court on a filing entitled “Supplement Complaint and Expedition,” which was docketed as Motion to Substitute Party. (ECF No. 157).

The filing is construed as a Motion for Leave to Amend, as no substitution of parties appears proper in Fed. R. Civ. Proc. 25. Served Defendants oppose the Motion. (ECF No. 158).

Plaintiff requests that Bancier Smith be substituted as Brian Smith. (ECF No. 157). Plaintiff has filed multiple complaints and this court has previously ordered service on the original complaint, the first amended complaint, and the second amended complaint. On August 15, 2017, Plaintiff was instructed to file one complete complaint to include all allegations without incorporation by reference to prior pleadings, complaints, amendments, supplemental complaints, or another filing.

On September 25, 2017, counsel for served Defendants informed Plaintiff:

In an August 31, 2017 Text Order (Docket Entry # 115), the Court ordered the SCDC Defendants to file under seal the addresses of certain named Defendants, including Smith, to the extent that they had knowledge of that information. As noted in the SCDC Defendants’ Reply to that Order (Docket Entry # 115), a search of the employment records for all employees named “Brian Smith” who worked at BRCI during the times at issue in this litigation revealed no such employee exists; nevertheless, the SCDC Defendants searched for names somewhat similar to the one listed by the Plaintiff and determined that an individual named Bancier Smith was working at BRCI during the times at issue in the litigation. While it is not known whether Bancier Smith is the “Brian Smith”

identified by the Plaintiff in his filings, his last known contact information was provided to the Court (under seal) out of an abundance of caution and in compliance with the Text Order.

(ECF No. 131). Plaintiff did not attempt to amend his complaint to change parties from Brian to Bancier at the time that he was informed of the possibility of a different party. Instead, Plaintiff waited to raise this issue until December 15, 2017. Of note, since September 2017 when Plaintiff was first informed of the possible name Bancier, summonses have returned both executed and unexecuted on attempts by the U.S. Marshal to serve a Brian Smith with the second amended complaint. (ECF Nos. 142 and 155). Plaintiff also did not inform the court at those times that he had wished to name Bancier and not Brian.

The court GRANTS Plaintiff's Motion to Amend (ECF No. 157) and Plaintiff is instructed to **file one complete complaint to include all allegations within twenty-one days from the date of this order. Any incorporation by reference to prior pleadings, complaints, amendments, supplemental complaints, or another filing will not be sufficient and will be void.** Due to the plethora of opportunities Plaintiff has been given to file one complete complaint, any further requests for leave to amend will be viewed with disfavor by the court. As a matter of judicial economy and efficiency, Plaintiff is not to be concerned with the completion of service documents as the clerk will be directed to complete said documents at the appropriate time.

IT IS SO ORDERED.

January 10, 2018
Florence, South Carolina

s/ Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge